

§ 453.1

29 CFR Ch. IV (7-1-07 Edition)

453.8 Personnel who “handle” funds or other property.

453.9 “Handling” of funds or other property by personnel functioning as a governing body.

SCOPE OF THE BOND

453.10 The statutory provision.

453.11 The nature of the “duties” to which the bonding requirement relates.

453.12 Meaning of fraud or dishonesty.

AMOUNT OF BONDS

453.13 The statutory provision.

453.14 The meaning of “funds”.

453.15 The meaning of funds handled “during the preceding fiscal year”.

453.16 Funds handled by more than one person.

453.17 Term of the bond.

FORM OF BONDS

453.18 Bonds “individual or schedule in form.”

453.19 The designation of the “insured” on bonds.

QUALIFIED AGENTS, BROKERS, AND SURETY COMPANIES FOR THE PLACING OF BONDS

453.20 Corporate sureties holding grants of authority from the Secretary of the Treasury.

453.21 Interests held in agents, brokers, and surety companies.

MISCELLANEOUS PROVISIONS

453.22 Prohibition of certain activities by unbonded persons.

453.23 Persons becoming subject to bonding requirements during fiscal year.

453.24 Payment of bonding costs.

453.25 Effective date of the bonding requirement.

453.26 Powers of the Secretary of Labor to exempt.

AUTHORITY: Sec. 502, 73 Stat. 536; 79 Stat. 888 (29 U.S.C. 502); Secretary’s Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14394, Dec. 27, 1963, unless otherwise noted.

INTRODUCTION

§ 453.1 Scope and significance of this part.

(a) *Functions of the Department of Labor.* This part discusses the meaning and scope of section 502 of the Labor-Management Reporting and Disclosure Act of 1959¹ (hereinafter referred to as the Act), which requires the bonding of

certain officials, representatives, and employees of labor organizations and of trusts in which labor organizations are interested. The provisions of section 502 are subject to the general investigatory authority of the Secretary of Labor, embodied in section 601 of the Act (and delegated by him to the Assistant Secretary), which empowers him to investigate whenever he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of the Act (except title I or amendments to other statutes made by section 505 or title VII). The Department of Labor is also authorized, under the general provisions of section 607, to forward to the Attorney General, for appropriate action, any evidence of violations of section 502 developed in such investigations, as may be found to warrant criminal prosecution under the Act or other Federal law.

(b) *Purpose and effect of interpretations.* Interpretations of the Assistant Secretary with respect to the bonding provisions are set forth in this part to provide those affected by these provisions of the Act with “a practical guide * * * as to how the office representing the public interest in its enforcement will seek to apply it.”² The correctness of an interpretation can be determined finally and authoritatively only by the courts. It is necessary, however, for the Assistant Secretary to reach informed conclusions as to the meaning of the law to enable him to carry out his statutory duties of administration and enforcement. The interpretations of the Assistant Secretary contained in this part, which are issued upon the advice of the Solicitor of Labor, indicate the construction of the law which will guide him in performing his duties unless and until he is directed otherwise by authoritative rulings of the courts or unless and until he subsequently decides that a prior interpretation is incorrect. However, the omission to discuss a particular problem in this part, or in interpretations supplementing it, should not be taken to indicate the adoption of any position by the Assistant Secretary with respect to such

¹ 73 Stat. 536; 29 U.S.C. 502.

² *Skidmore v. Swift & Co.*, 323 U.S. 134, 138.

problem or to constitute an administrative interpretation or practice.

(c) *Earlier interpretations superseded.* To the extent that prior opinions and interpretations under the Act, relating to the bonding of certain officials, representatives, and employees of labor organizations and of trusts in which labor organizations are interested, are inconsistent or in conflict with the principles stated in this part, they are hereby rescinded and withdrawn.

[28 FR 14394, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

CRITERIA FOR DETERMINING WHO MUST BE BONDED

§ 453.2 Provisions of the statute.

(a) Section 502(a) requires that:

Every officer, agent, shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on his part directly or through connivance with others.

(b) This section sets forth, in the above language and in its further provisions, the minimum requirements regarding the bonding of the specified personnel. There is no provision in the Act which precludes the bonding of such personnel in amounts exceeding those specified in section 502(a). Similarly, the Act contains no provision precluding the bonding of such personnel as are not required to be bonded by this section. Such excess coverage may be in any amount and in any form otherwise lawful and acceptable to the parties to such bonds.

[28 FR 14394, Dec. 27, 1963, as amended at 30 FR 14925, Dec. 2, 1965]

§ 453.3 Labor organizations within the coverage of section 502(a).

Any labor organization as defined in sections 3(i) and 3(j) of the Act³ is a labor organization within the coverage of section 502(a) unless its property and annual financial receipts do not exceed \$5,000 in value. The determination as to

whether a particular labor organization is excepted from the application of section 502(a) is to be made at the beginning of each of its fiscal years on the basis of the total value of all its property at the beginning of, and its total financial receipts during, the preceding fiscal year of the organization.

§ 453.4 Trusts (in which a labor organization is interested) within the coverage of section 502(a).

Section 3(l) of the Act defines a *trust in which a labor organization is interested* as:

* * * a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

Both the language and the legislative history⁴ make it clear that this definition covers pension funds, health and welfare funds, profit sharing funds, vacation funds, apprenticeship and training funds, and funds or trusts of a similar nature which exist for the purpose of, or have as a primary purpose, the providing of the benefits specified in the definition. This is so regardless of whether these trusts, funds, or organizations are administered solely by labor organizations, or jointly by labor organizations and employers, or by a corporate trustee, unless they were neither created or established by a labor organization nor have any trustee or member of the governing body who was selected or appointed by a labor organization.

§ 453.5 Officers, agents, shop stewards, or other representatives or employees of a labor organization.

With respect to labor organizations, the term "officer, agent, shop steward, or other representative" is defined in section 3(q) of the Act to include "elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads

³See part 451 of this chapter.

⁴Daily Cong. Rec., pp. 5858-59, Senate, April 23, 1959.